

THE LAW OFFICES OF MARK S. SMITH
456 West O'Brien Drive, Suite 102-D
Hagatna, Guam 96910
Telephone: (671) 477-6631/32
Facsimile: (670) 477-8831

FILED
DISTRICT COURT OF GUAM

OCT 26 2005 9P

**MARY L.M. MORAN
CLERK OF COURT**

Attorney for Defendant,
John A.B. Atoigue

**IN THE UNITED STATES DISTRICT COURT
FOR THE TERRITORY OF GUAM**

UNITED STATES OF AMERICA,) MAGISTRATE CASE NO.: 05-00017
Plaintiff,)
vs.)
DEFENDANT'S STATEMENT OF
POSITION RE: PROPOSED
PRE-SENTENCE REPORT
JUAN SAN NICOLAS CHARGULAF)
AND JOHN A.B. ATOIGUE,)
Defendants.)

COMES NOW, Defendant, John A.B. Atoigue, by and through undersigned legal counsel and hereby submits his statement of position with respect to the proposed pre-sentence report as required by Federal Rules of Criminal Procedure, Rule 32 and the United States District Court of Guam, General Order, 98-00002.

With the exception of modifying in part Page 2, Paragraph 8 of the sentencing recommendation, Defendant has no objection to the proposed pre-sentence report. Defendant requests amended of Page 2, Paragraph 8 to include "entering military establishments for work related purposes". Defendant understands that his request may need to be forwarded to the Wing Commander, Andersen Air Force Base and Naval Commander for the United States Naval Base.

CM/Atoigue, John.05-00017

Statement of Position

ORIGINAL

3 Agat, Guam.

4 Pursuant to U.S. District Court of Guam's General Order, Sentencing Procedures; Defendant
5 must file a response to (d)(1) and (d)(2) as stated below:

6 (d)(1), All sentencing factors, facts and other matters
7 material to sentencing that remain in dispute,
8 including a statement, and calculation if appropriate,
9 showing how the dispute affects the calculation of the
applicable guidelines range, and;

10 (d)(2), Whether an evidentiary hearing is requested
11 and, if so, an estimate of the time required for such
12 hearing and summary of the evidence to be produced.
Upon receipt of any such objections, the probation
13 officer shall conduct any further investigation and
make any revisions to the presentence report that are
14 deemed necessary.

15 Defendant has no objection and hereby adopts the U.S. Probation Office analysis with respect
16 to requirements (d)(1) and furthermore, hereby waives the right to an evidentiary hearing as provided
17 in (d)(2) of General Order 98-00002.

18
19 Dated this 25th day of October, 2005.

20
21 Respectfully submitted,

22 By:


23 MARK S. SMITH, ESQ.
24 Attorney for Defendant, *John A.B. Atoigue*
25
26
27
28